IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 28214 of 2007(H)

AGAINST THE ORDER DATED 03/10/2005 IN IA.2208 IN LAR.117/1998 of ADDL.SUB COURT,KOLLAM

.....

PETITIONER:

BHARGAVI PILLAI,
THANATHAZHIKATHU PADINJATTATHIL,
KANNIMEL CHERRY, KILIKOLLOOR VILLAGE.

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
KOLLAM.

BY GOVT. PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioner's Exts:

Ext.P1 true copy of the claim statement in LAR No.117/1998 before the Addl. Sub Court, Kollam dated nil.

Ext.P2 true copy of the affidavit and petition in IA 2208 in LAR No.117/1998 before the Addl. Sub Court, Kollam dated 3.10.2005.

Ext.P3 true copy of the judgment in LAR 117/1998 before the Addl. Sub Court, Kollam dated 4.10.2005.

Ext.P4 true copy of the order in IA 2445 of 2005 in LAR 117/1998 before the Addl. Sub Court, Kollam dated 27.2.06.

M.N.Krishnan, J.

==========

W.P(C).No.28214 of 2007

==========

Dated this the 9th day of October, 2007.

JUDGMENT

This Writ Petition is preferred to set aside Exts.P3 and P4. The writ petitioner is a claimant in a Land Acquisition Reference. He did not present himself for tendering evidence. When the matter was posted for evidence in his absence, the court held that the Land Acquisition Officer had properly complied with the requirements and just confirmed that award.

2. An application under Order 9 Rule 9 of C.P.C. was also filed for restoration. It is settled position of law that the Land Acquisition Court cannot dismiss the reference for default. I do not want to say anything under Order 9 Rule 9 of C.P.C. But it is a matter which requires sympathetic consideration by the court whether proper compensation has been awarded in a case of this nature because there was no assistance from the claimant to find out the real bone of contention between the parties.

3. Therefore in order to render substantial justice, I invoke the jurisdiction under Article 227 of the Constitution of India and set aside the award passed in L.A.R.No.117 of 1998 and direct the Subordinate Judge, Kollam to consider and dispose of the matter in accordance with law. I also make it clear that if the court finds that there has been grave latches on the part of the claimant, it may consider while granting interest for the period in between the date of dismissal and the direction given by me today. I also make it clear that this judgment shall not be treated as a precedent in other cases.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 9/10